

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:)	
)	Chapter 11
RS FIT NW LLC,)	
)	Case No. 20-11568 (TMH)
Debtor.)	
)	(Jointly Administered)
)	
24 HOUR FITNESS WORLDWIDE, INC.,)	
)	
Plaintiff,)	
)	
v.)	
)	
CONTINENTAL CASUALTY COMPANY;)	Adv. Pro. No. 20-51051 (TMH)
ENDURANCE AMERICAN SPECIALTY)	
INSURANCE COMPANY; STARR SURPLUS)	
LINES INSURANCE COMPANY; ALLIANZ)	
GLOBAL RISKS US INSURANCE COMPANY;)	
LIBERTY MUTUAL INSURANCE COMPANY;)	
BEAZLEY-LLOYD’S SYNDICATES 2623/623;)	
ALLIED WORLD NATIONAL ASSURANCE)	
COMPANY; QBE SPECIALTY INSURANCE)	
COMPANY; and GENERAL SECURITY)	
INDEMNITY COMPANY OF ARIZONA,)	
)	
Defendants.)	
)	

JOINT NOTICE OF COMPLETION OF BRIEFING

PLEASE TAKE NOTICE, all briefing has been completed with regard to *Plaintiff 24 Hour Fitness Worldwide, Inc.’s Motion for Partial Summary Judgment* [Adv. D.I. 237] (the “24 Hour Summary Judgment Motion”). The following filed documents are relevant to the 24 Hour Summary Judgment Motion:

- (i) *Brief in Support of Plaintiff 24 Hour Fitness Worldwide Inc.'s Motion for Partial Summary Judgment* [Adv. D.I. 238];
- (ii) *Request for Judicial Notice in Support of Plaintiff's Motion for Partial Summary Judgment* [Adv. D.I. 240];

- (iii) *Declarations in Support of 24 Hour Fitness Worldwide, Inc.'s Motion for Partial Summary Judgment* [Adv. D.I. 241];
- (iv) *Appendix in Support of Plaintiff 24 Hour Fitness Worldwide, Inc.'s Motion for Partial Summary Judgment* [Adv. D.I. 242];
- (v) *Opposition of the Property Insurer Defendants to Plaintiff 24 Hour Fitness Worldwide, Inc.'s Motion for Partial Summary Judgment* [Adv. D.I. 248];
- (vi) *Motion of the Property Insurer Defendants to Exclude Dr. Carnethon's Proposed Expert Testimony* [Adv. D.I. 249];
- (vii) *Opposition of the Property Insurer Defendants to Plaintiff's Request for Judicial Notice in Support of Plaintiff's Motion for Partial Summary Judgment* [Adv. D.I. 250];
- (viii) *Supplemental Appendix in Support of the Opposition of the Property Insurer Defendants to Plaintiff 24 Hour Fitness Worldwide, Inc.'s Motion for Partial Summary Judgment* [Adv. D.I. 251];
- (ix) *Plaintiff 24 Hour Fitness Worldwide, Inc.'s Reply in Support of Its Motion for Summary Judgment* [Adv. D.I. 273];
- (x) *Request for Oral Argument* [Adv. D.I. 274];
- (xi) *Plaintiff 24 Hour Fitness Worldwide, Inc.'s Opposition to Property Insurer Defendants' Motion to Exclude Dr. Carnethon's Proposed Expert Testimony* [Adv. D.I. 275];
- (xii) *24 Hour Fitness Worldwide, Inc.'s Appendix of Evidence in Support of Its Opposition to Defendants' Motion to Exclude Dr. Carnethon's Proposed Expert Testimony* [Adv. D.I. 276];
- (xiii) *Declaration of T. Connor O'Carroll in Support of Plaintiff 24 Hour Fitness Worldwide, Inc.'s Opposition to Insurers' Motion to Exclude Dr. Carnethon's Proposed Expert Testimony* [Adv. D.I. 277];
- (xiv) *Plaintiff's Reply in Support of Its Request for Judicial Notice* [Adv. D.I. 278]; and
- (xv) *Reply of the Property Insurers to Plaintiff 24 Hour Fitness Worldwide, Inc.'s Opposition to Property Insurer Defendants' Motion to Exclude Dr. Carnethon's Proposed Expert Testimony* [Adv. D.I. 296].

PLEASE TAKE FURTHER NOTICE, all briefing has been completed with regard to the *Property Insurer Defendants’ Motion for Summary Judgment and Incorporated Memorandum of Law* [Adv. D.I. 232] (the “Property Insurer Summary Judgment Motion”). The following filed documents are relevant to the Property Insurer Summary Judgment Motion:¹

- (i) *Appendix to Property Insurer Defendants’ Motion for Summary Judgment and Incorporated Memorandum of Law* [Adv. D.I. 233];
- (ii) *Plaintiff 24 Hour Fitness Worldwide, Inc.’s Opposition to Property Insurers’ Motion for Summary Judgment* [Adv. D.I. 252];
- (iii) *Request for Judicial Notice in Support of Plaintiff’s Oppositions to Defendants’ Motions for Summary Judgment* [Adv. D.I. 256];
- (iv) *Declarations in Support of Plaintiff 24 Hour Fitness Worldwide, Inc.’s Oppositions to Defendants’ Motions for Summary Judgment* [Adv. D.I. 257];
- (v) *Plaintiff’s Evidentiary Objections to Property Insurer Defendants’ Statements of Facts in Support of Property Insurers’ Motion for Summary Judgment* [Adv. D.I. 259];
- (vi) *Request for Oral Argument* [Adv. D.I. 274];
- (vii) *Second Supplemental Appendix in Support of Property Insurer Defendants’ Reply in Support of Their Motion for Summary Judgment* [Adv. D.I. 266];
- (viii) *Property Insurer Defendants’ Reply in Support of Their Motion for Summary Judgment* [Adv. D.I. 267];
- (ix) *Property Insurer Defendants’ Motion to Strike Plaintiff’s Evidentiary Objections to Defendants’ Statement of Facts in Support of Property Insurers’ Motion for Summary Judgment* [Adv. D.I. 268];
- (x) *Supplement to the Motion of the Property Insurer Defendants to Exclude Dr. Carnethon’s Proposed Expert Testimony* [Adv. D.I. 271];
- (xi) *Supplement to the Opposition of the Property Insurer Defendants to Plaintiff’s Request for Judicial Notice in Support of Plaintiff’s Motion for Partial Summary Judgment* [Adv. D.I. 272];
- (xii) *Request for Oral Argument* [Adv. D.I. 288];

¹ For the avoidance of doubt, certain of the Defendants may rely upon or incorporate by reference certain papers filed by other Defendants in this adversary proceeding. Moreover, Plaintiff may rely on its certain opposition papers in the adversary proceeding.

- (xiii) *Plaintiff's Reply in Support of Plaintiff's Request for Judicial Notice* [Adv. D.I. 297];
- (xiv) *Plaintiff 24 Hour Fitness Worldwide, Inc.'s Response to Insurers' Motions to Strike Plaintiff's Evidentiary Objections* [Adv. D.I. 299];
- (xv) *Plaintiff 24 Hour Fitness Worldwide, Inc.'s Opposition to Insurers' Motions to Exclude Dr. Carnethon's Proposed Expert Testimony* [Adv. D.I. 300];
- (xvi) *Property Insurer Defendants' Reply in Support of Their Motion to Strike Plaintiff's Evidentiary Objections to Defendant Property Insurers' Statement of Facts in Support of Their Motion for Summary Judgment* [Adv. D.I. 302]; and
- (xvii) *Reply of the Property Insurers to Plaintiff 24 Hour Fitness Worldwide, Inc.'s Opposition to Property Insurers' Motions to Exclude Dr. Carnethon's Proposed Expert Testimony* [Adv. D.I. 303].

PLEASE TAKE FURTHER NOTICE, all briefing has been completed with regard to *Defendant Allianz Global Risks US Insurance Company and Allied World Assurance Company's Supplemental Motion for Partial Summary Judgment* [Adv. D.I. 234] (the "Allianz and Allied World Supplemental Motion for Partial Summary Judgment"). The following filed documents are relevant to the Allianz and Allied World Supplemental Motion for Partial Summary Judgment:

- (i) *Objection to Defendants Allianz Global's and Allied World's Supplemental Motion for Partial Summary Judgment* [Adv. D.I. 255];
- (ii) *Request for Oral Argument* [Adv. D.I. 274];
- (iii) *Supplemental Reply in Further Support of Allianz Global Risks US Insurance Company's and Allied World Assurance Company's Motion for Partial Summary Judgment* [Adv. D.I. 269]; and
- (iv) *Request for Oral Argument filed by Allianz Global Risks US Insurance Company, Allied World National Assurance Company, Beazley-Lloyd's Syndicates 2623/623, Certain Underwriters at Lloyd's Subscribing to Policy No. W27C0A190101, Continental Insurance Company, General Security Indemnity Company of Arizona, Liberty Mutual Fire Insurance Company, Liberty Mutual Insurance Company, QBE Specialty Insurance Company, and Starr Surplus Lines Insurance Company* [Adv. D.I. 289].

PLEASE TAKE FURTHER NOTICE, all briefing has been completed with regard to *QBE Specialty Insurance Company, General Security Indemnity Company of Arizona, and Allianz Global Risks US Insurance Company's Memorandum of Law in Support of Defendants' Motion*

for Summary Judgment [Adv. D.I. 235] (the “Excess Insurer Summary Judgment Motion”). The following filed documents are relevant to the Excess Insurer Summary Judgment Motion:

- (i) *Plaintiff 24 Hour Fitness Worldwide, Inc.’s Opposition to Excess Insurers’ Motion for Summary Judgment* [Adv. D.I. 254];
- (ii) *Request for Oral Argument* [Adv. D.I. 274];
- (iii) *QBE Specialty Insurance Company, General Security Indemnity Company of Arizona, and Allianz Global Risks US Insurance Company’s Reply in Support of Defendants’ Motion for Summary Judgment* [Adv. D.I. 270]; and
- (iv) *Request for Oral Argument* [Adv. D.I. 290].

PLEASE TAKE FURTHER NOTICE, all briefing has been completed with regard to Defendant Allied World National Assurance Company’s Motion for Summary Judgment and Incorporated Memorandum of Law Regarding the Pollution Policy [Adv. D.I. 239] (the “Pollution Policy Summary Judgment Motion”). The following filed documents are relevant to the Pollution Policy Summary Judgment Motion:

- (i) *Appendix in Support of Property Insurer Defendants’ Motion for Summary Judgment and Incorporated Memorandum of Law* [Adv. D.I. 233];
- (ii) *Defendant Allied World National Assurance Company’s Supplemental Appendix in Support of its Motion for Summary Judgment Regarding the Pollution Policy and Incorporated Memorandum of Law* [Adv. D.I. 236];
- (iii) *Supplemental Appendix in Support of Property Insurer Defendants’ Motion for Summary Judgment and Incorporated Memorandum of Law and Related Pleadings* [Adv. D.I. 251];
- (iv) *Plaintiff 24 Hour Fitness Worldwide, Inc.’s Opposition to Allied World’s Motion for Summary Judgment Re Its Pollution Policy* [Adv. D.I. 253];
- (v) *Request for Judicial Notice in Support of Plaintiff’s Oppositions to Defendants’ Motions for Summary Judgment* [Adv. D.I. 256];
- (vi) *Declarations in Support of Plaintiff 24 Hour Fitness Worldwide, Inc.’s Oppositions to Defendants’ Motions for Summary Judgment* [Adv. D.I. 257];
- (vii) *24 Hour Fitness Worldwide, Inc.’s Omnibus Appendix in Support of Its Oppositions to Defendants’ Motions for Summary Judgment* [Adv. D.I. 258];
- (viii) *Plaintiff’s Evidentiary Objections to Allied World’s Statements of Facts in Support of Its Motion for Summary Judgment Re Its Pollution Policy* [Adv. D.I. 260];

- (ix) *Request for Oral Argument* [Adv. D.I. 274];
- (x) *Second Supplemental Appendix in Support of Property Insurer Defendants' Reply in Support of Their Motion for Summary Judgment and Incorporated Memorandum of Law* [Adv. D.I. 266];
- (xi) *Allied World National Assurance Company's Motion to Exclude Dr. Carnethon's Proposed Expert Testimony* [Adv. D.I. 279];
- (xii) *Allied World National Assurance Company's Reply Memorandum in Support of Motion for Summary Judgment Regarding the Pollution Policy* [Adv. D.I. 280];
- (xiii) *Objection of Defendant Allied World to Plaintiff's Request for Judicial Notice in Support of Plaintiff's Oppositions to Defendants' Motion for Summary Judgment* [Adv. D.I. 281];
- (xiv) *Defendant Allied World's Motion to Strike Plaintiff's Evidentiary Objections to Allied World's Statement of Facts in Support of Allied World's Motion for Summary Judgment Re Its Pollution Policy* [Adv. D.I. 282];
- (xv) *Allied World National Assurance Company's Request for Oral Argument on Its Motion for Summary Judgment Regarding the Pollution Policy* [Adv. D.I. 292];
- (xvi) *Plaintiff's Reply in Support of Plaintiff's Request for Judicial Notice* [Adv. D.I. 298];
- (xvii) *Plaintiff 24 Hour Fitness Worldwide, Inc.'s Response to Insurers' Motions to Strike Plaintiff's Evidentiary Objections* [Adv. D.I. 299];
- (xviii) *Plaintiff 24 Hour Fitness Worldwide, Inc.'s Opposition to Insurers' Motions to Exclude Dr. Carnethon's Proposed Expert Testimony* [Adv. D.I. 300];
- (xix) *Defendant Allied World's Reply in Further Support of Its Motion to Strike Plaintiff's Evidentiary Objections to Allied World's Statement of Facts in Support of Its Motion for Summary Judgment Regarding Its Pollution Policy* [Adv. D.I. 304];
- (xx) *Defendant Allied World National Assurance Company's Reply in Support of Its Motion to Exclude Dr. Carnethon's Proposed Expert Testimony* [Adv. D.I. 305];
and
- (xxi) All other documents filed in this adversary proceeding which are incorporated by reference or referred to in the foregoing documents.

PLEASE TAKE FURTHER NOTICE, for the avoidance of doubt, under Rule 7007-3 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware, the parties to the above-captioned adversary proceeding hereby request oral argument with respect to the motions and related papers listed above not covered by the various requests for oral argument already filed at Adv. D.I. 274, 288, 289, 290, and 292. For the avoidance of doubt, the parties further specifically request oral argument with respect to 24 Hour's Requests for Judicial Notice and Oppositions and Replies to same: Adv. D.I. 240, 250, 256, 272, 278, 281, 297, 298; 24 Hour's Evidentiary Objections and the Motions to Strike and Oppositions and Replies to Same: Adv. D.I. 259, 260, 268, 282, 299, 302, 304; and the Insurers' Motions to Strike Dr. Carnethon's Opinions and Oppositions and Replies to Same: Adv. D.I. 249, 271, 275, 279, 296, 300, 303, and 305.

Dated: March 22, 2024

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